

59-1-403 (Effective 07/01/14). Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
- (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

- (a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;
- (b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and
- (c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:
 - (i) who brings action to set aside or review a tax based on the report or return;
 - (ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
 - (iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Solid and Hazardous Waste, as defined in Section 19-6-102, as requested by the director of the Division of Solid and Hazardous Waste, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection

(3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah 911 Committee the information requested by the Utah 911 Committee under Subsection 63H-7-303(4).

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

- (i) is not guilty of a class A misdemeanor; and
 - (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (5)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (5)(b).
- (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Amended by Chapter 320, 2014 General Session

59-1-809 (Effective 07/01/14). Commission authority related to the Multistate Tax Commission and governmental entities.

The commission may furnish to the Multistate Tax Commission, a taxing official of another state, the District of Columbia, or the United States or its territories, any information contained in:

- (1) a tax return or report, a related schedule, or a document filed pursuant to the tax laws of this state; or
- (2) the report of an audit or investigation made with respect to a tax return or report, a related schedule, or a document described in Subsection (1).

Amended by Chapter 54, 2014 General Session

59-2-102 (Effective 01/01/15). Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

- (i) operates:
 - (A) on an interstate route; and
 - (B) on a scheduled basis; and
 - (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.
- (b) "Airline" does not include an:

- (i) air charter service; or
- (ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any

private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

- (i) a county; and
- (ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

- (i) the taxing entities described in Subsection (9)(a); and
- (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or
- (B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

- (i) \$5,000; or
- (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

- (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;
- (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or
- (iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used

primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;
- (c) for a school district, the local board of education; or
- (d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and
(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:
(A) cause substantial damage to the item; or
(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:
(A) essential to the operation of the item described in Subsection (19)(a); and
(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:
(A) is temporarily detached from the land for repairs; and
(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

- (A) for stability only; or
- (B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or
(B) essential accessories to manufacturing equipment and machinery;
(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:
(A) the land; or
(B) the item; or
(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:
(a) property that is capable of private ownership separate from tangible property, including:
(i) money;
(ii) credits;
(iii) bonds;
(iv) stocks;
(v) representative property;
(vi) franchises;
(vii) licenses;
(viii) trade names;
(ix) copyrights; and
(x) patents;
(b) a low-income housing tax credit;
(c) goodwill; or
(d) a renewable energy tax credit or incentive, including:
(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
(iv) a tax credit under Subsection 59-7-614(2)(c).

(21) "Livestock" means:
(a) a domestic animal;
(b) a fur-bearing animal;
(c) a honeybee; or
(d) poultry.
(22) "Low-income housing tax credit" means:
(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
(b) a low-income housing tax credit under:
(i) Section 59-7-607; or
(ii) Section 59-10-1010.

(23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous

valuable mineral.

(25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(26) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(29) "Personal property" includes:

(a) every class of property as defined in Subsection (30) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(30) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(31) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person

defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (32) and Subsection (35).

(33) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(35) (a) Subject to Subsection (35)(b), "residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), "residential property":

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (32) and this Subsection (35).

(36) "Split estate mineral rights owner" means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property

where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Amended by Chapter 65, 2014 General Session

Amended by Chapter 411, 2014 General Session

59-2-103 (Effective 01/01/15). Rate of assessment of property -- Residential property.

(1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(2) Subject to Subsections (3) through (5) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

(3) Part-year residential property located within the state is allowed the residential exemption described in Subsection (2) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.

(4) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (2).

(5) (a) Except as provided in Subsection (5)(b)(ii), a residential exemption described in Subsection (2) is limited to one primary residence per household.

(b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (2) for:

(i) subject to Subsection (5)(a), the primary residence of the owner; and

- (ii) each residential property that is the primary residence of a tenant.

Amended by Chapter 65, 2014 General Session

59-2-103.5 (Effective 01/01/15). Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) For residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1) shall:

(i) be on a form the commission prescribes by rule and makes available to the counties;

(ii) be signed by all of the owners of the residential property;

(iii) certify that the residential property is residential property; and

(iv) contain other information as the commission requires by rule.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)(a).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.

(c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed \$50.

(4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.

(7) (a) For the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).

Amended by Chapter 65, 2014 General Session

59-2-301.6 (Effective 01/01/15). Definition -- Assessment of property having a diminished productive value.

(1) As used in this section, "diminished productive value" means that property has no, or a significantly reduced, ability to generate income as a result of:

(a) a parcel size requirement established under a land use ordinance or zoning

map adopted by a:

(i) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use Ordinances; or

(ii) a county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances; or

(b) one or more easements burdening the property.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether property has diminished productive value.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Enacted by Chapter 218, 2014 General Session

59-2-405.2 (Effective 01/01/15). Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2; or

(II) all-terrain type II vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;

(B) a kayak;

(C) a racing shell;

(D) a rowing scull; or
(E) notwithstanding the definition of vessel in Subsection (1)(bb), a canoe with an outboard motor.

(d) "Dealer" is as defined in Section 41-1a-102.

(e) "Jon boat" means a vessel that:

(i) has a square bow; and

(ii) has a flat bottom.

(f) "Motor vehicle" is as defined in Section 41-22-2.

(g) "Other motorcycle" means a motor vehicle that:

(i) is:

(A) a motorcycle as defined in Section 41-1a-102; and

(B) designed primarily for use and operation over unimproved terrain;

(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

(iii) has:

(A) an engine with more than 150 cubic centimeters displacement; or

(B) a motor that produces more than five horsepower.

(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:

(A) to transport tangible personal property; and

(B) for a purpose other than a commercial purpose; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.

(i) "Outboard motor" is as defined in Section 41-1a-102.

(j) "Park model recreational vehicle" is as defined in Section 41-1a-102.

(k) "Personal watercraft" means a personal watercraft:

(i) as defined in Section 73-18-2; and

(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(l) (i) "Pontoon" means a vessel that:

(A) is:

(I) supported by one or more floats; and

(II) propelled by either inboard or outboard power; and

(B) is not:

(I) a houseboat; or

(II) a collapsible inflatable vessel; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "houseboat."

(m) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption, or reduction:

(i) of all or a portion of a qualifying payment;

(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.

(n) (i) "Qualifying payment" means the payment made:

(A) of a uniform statewide fee in accordance with this section:

- (I) by a qualifying person;
- (II) to a county; and
- (III) during the refund period; and
- (B) on an item of qualifying tangible personal property; and
- (ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:
 - (A) the payment described in this Subsection (1)(n) for that item of qualifying tangible personal property; and
 - (B) the amount of the qualifying adjustment, exemption, or reduction.
- (o) "Qualifying person" means a person that paid a uniform statewide fee:
 - (i) during the refund period;
 - (ii) in accordance with this section; and
 - (iii) on an item of qualifying tangible personal property.
- (p) "Qualifying tangible personal property" means a:
 - (i) qualifying vehicle; or
 - (ii) qualifying watercraft.
- (q) "Qualifying vehicle" means:
 - (i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;
 - (ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;
 - (iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;
 - (iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or
 - (v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.
- (r) "Qualifying watercraft" means a:
 - (i) canoe;
 - (ii) collapsible inflatable vessel;
 - (iii) jon boat;
 - (iv) pontoon;
 - (v) sailboat; or
 - (vi) utility boat.
- (s) "Refund period" means the time period:
 - (i) beginning on January 1, 2006; and
 - (ii) ending on December 29, 2006.
- (t) "Sailboat" means a sailboat as defined in Section 73-18-2.
- (u) (i) "Small motor vehicle" means a motor vehicle that:
 - (A) is required to be registered in accordance with Title 41, Motor Vehicles; and
 - (B) has:
 - (I) an engine with 150 or less cubic centimeters displacement; or
 - (II) a motor that produces five or less horsepower; and
 - (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to

certify whether the motor vehicle has:

- (A) an engine with 150 or less cubic centimeters displacement; or
- (B) a motor that produces five or less horsepower.
- (v) "Snowmobile" means a motor vehicle that:
 - (i) is a snowmobile as defined in Section 41-22-2;
 - (ii) is required to be registered in accordance with Title 41, Chapter 22,

Off-Highway Vehicles; and

- (iii) has:
 - (A) an engine with more than 150 cubic centimeters displacement; or
 - (B) a motor that produces more than five horsepower.
- (w) "Street motorcycle" means a motor vehicle that:
 - (i) is:
 - (A) a motorcycle as defined in Section 41-1a-102; and
 - (B) designed primarily for use and operation on highways;
 - (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,

Registration; and

- (iii) has:
 - (A) an engine with more than 150 cubic centimeters displacement; or
 - (B) a motor that produces more than five horsepower.
- (x) "Tangible personal property owner" means a person that owns an item of qualifying tangible personal property.

- (y) "Tent trailer" means a portable vehicle without motive power that:
 - (i) is constructed with collapsible side walls that:
 - (A) fold for towing by a motor vehicle; and
 - (B) unfold at a campsite;
 - (ii) is designed as a temporary dwelling for travel, recreational, or vacation use;
 - (iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,

Registration; and

(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(z) (i) Except as provided in Subsection (1)(z)(ii), "travel trailer" means a travel trailer:

- (A) as defined in Section 41-1a-102; and
- (B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and

- (ii) notwithstanding Subsection (1)(z)(i), "travel trailer" does not include:
 - (A) a camper; or
 - (B) a tent trailer.

(aa) (i) "Utility boat" means a vessel that:

- (A) has:
 - (I) two or three bench seating;
 - (II) an outboard motor; and
 - (III) a hull made of aluminum, fiberglass, or wood; and
- (B) does not have:
 - (I) decking;
 - (II) a permanent canopy; or

(III) a floor other than the hull; and
(ii) notwithstanding Subsection (1)(aa)(i), "utility boat" does not include a collapsible inflatable vessel.
(bb) "Vessel" means a vessel:
(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.

(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:

(i) exempt from the tax imposed by Section 59-2-103; and
(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.

(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:

(i) an all-terrain vehicle;
(ii) a camper;
(iii) an other motorcycle;
(iv) an other trailer;
(v) a personal watercraft;
(vi) a small motor vehicle;
(vii) a snowmobile;
(viii) a street motorcycle;
(ix) a tent trailer;
(x) a travel trailer;
(xi) a park model recreational vehicle; and
(xii) a vessel if that vessel is less than 31 feet in length as determined under Subsection (6).

(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:

(a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$20
6 or more years but less than 9 years	\$30
3 or more years but less than 6 years	\$35
Less than 3 years	\$45

(b) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
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12 or more years	\$10
9 or more years but less than 12 years	\$25
6 or more years but less than 9 years	\$35
3 or more years but less than 6 years	\$50
Less than 3 years	\$70

(c) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$15
6 or more years but less than 9 years	\$20
3 or more years but less than 6 years	\$25
Less than 3 years	\$30

(d) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
12 or more years	\$10
9 or more years but less than 12 years	\$25
6 or more years but less than 9 years	\$35
3 or more years but less than 6 years	\$45
Less than 3 years	\$55

(e) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	\$10
3 or more years but less than 6 years	\$15
Less than 3 years	\$25

(f) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	\$10

9 or more years but less than 12 years	\$35
6 or more years but less than 9 years	\$50
3 or more years but less than 6 years	\$70
Less than 3 years	\$95

(g) for a travel trailer or park model recreational vehicle:

Age of Travel Trailer or Park Model Recreational Vehicle	Uniform Statewide Fee
12 or more years	\$20
9 or more years but less than 12 years	\$65
6 or more years but less than 9 years	\$90
3 or more years but less than 6 years	\$135
Less than 3 years	\$175

(h) \$10 regardless of the age of the vessel if the vessel is:

(i) less than 15 feet in length;

(ii) a canoe;

(iii) a jon boat; or

(iv) a utility boat;

(i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	\$15
19 feet or more in length but less than 23 feet in length	\$25
23 feet or more in length but less than 27 feet in length	\$40
27 feet or more in length but less than 31 feet in length	\$75

(j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$25
9 or more years but less than 12 years	\$65

6 or more years but less than 9 years	\$80
3 or more years but less than 6 years	\$110
Less than 3 years	\$150

(k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$50
9 or more years but less than 12 years	\$120
6 or more years but less than 9 years	\$175
3 or more years but less than 6 years	\$220
Less than 3 years	\$275

(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$100
9 or more years but less than 12 years	\$180
6 or more years but less than 9 years	\$240
3 or more years but less than 6 years	\$310
Less than 3 years	\$400

(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	\$120
9 or more years but less than 12 years	\$250
6 or more years but less than 9 years	\$350
3 or more years but less than 6 years	\$500
Less than 3 years	\$700

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	\$7.75
9 or more years but less than 12 years	\$27
6 or more years but less than 9 years	\$38.50
3 or more years but less than 6 years	\$54
Less than 3 years	\$73

(b) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	\$7.75
3 or more years but less than 6 years	\$11.50
Less than 3 years	\$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) The revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(7) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection (7).

(b) (i) Except as provided in Subsection (7)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection (7)(b)(i), the length of a vessel may not include the length of:

(A) a swim deck;

- (B) a ladder;
- (C) an outboard motor; or
- (D) an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection (7)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection (7)(d).

(d) (i) A form under Subsection (7)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is determined in accordance with Subsection (7)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel;
and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under

Subsection (7)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

- (I) the commission;
- (II) the county assessor; or
- (III) the commission and the county assessor.

(B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance of any form.

(8) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection (8)(b) if:

- (i) the difference described in Subsection (8)(b) is \$1 or more; and
- (ii) the qualifying person submitted a form in accordance with Subsections (8)(c) and (d).

(b) The refund amount shall be calculated as follows:

- (i) for a qualifying vehicle, the refund amount is equal to the difference between:
 - (A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

- (ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection (8)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection (8)(c) or (9) shall:

(A) be developed by the commission;

(B) be provided by the commission to the counties;

(C) be provided by the county to the qualifying person or tangible personal property owner;

(D) provide for the reporting of the following:

(I) for a qualifying vehicle:

(Aa) the type of qualifying vehicle; and

(Bb) the amount of cubic centimeters displacement;

(II) for a qualifying watercraft:

- (Aa) the length of the qualifying watercraft;
- (Bb) the age of the qualifying watercraft; and
- (Cc) the type of qualifying watercraft;
- (E) be signed by the qualifying person or tangible personal property owner; and
- (F) include a certification that the information set forth in the form is true.
- (ii) A certification made under Subsection (8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.
- (iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection (8)(c) or (9) is considered to have given the qualifying person's consent to an audit or review by:
 - (I) the commission;
 - (II) the county assessor; or
 - (III) the commission and the county assessor.
- (B) The consent described in Subsection (8)(d)(iii)(A) is a condition to the acceptance of any form.
- (e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection (8)(c).
- (9) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection (8)(d).
- (10) (a) For purposes of this Subsection (10), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:
 - (i) during the refund period;
 - (ii) in accordance with this section; and
 - (iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.
- (b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:
 - (i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;
 - (ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and
 - (iii) that the owner may be entitled to a refund pursuant to Subsection (8).

Amended by Chapter 237, 2014 General Session

59-2-804 (Effective 01/01/15). Interstate allocation of mobile flight equipment.

- (1) As used in this section:
 - (a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.
 - (b) "Airline ground hours calculation" means an amount equal to the product of:
 - (i) the total number of hours aircraft owned or operated by an airline are on the ground, calculated by aircraft type; and
 - (ii) the cost percentage.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the calendar year that immediately precedes the January 1 described in Section 59-2-103.

(d) "Cost percentage" means a fraction, calculated by aircraft type, the numerator of which is the airline's average cost of the aircraft type and the denominator of which is the airline's average cost of the aircraft type:

(i) owned or operated by the airline; and

(ii) that has the lowest average cost.

(e) "Ground hours factor" means the product of:

(i) a fraction, the numerator of which is the Utah ground hours calculation and the denominator of which is the airline ground hours calculation; and

(ii) .50.

(f) (i) Except as provided in Subsection (1)(f)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include tangible personal property described in Subsection 59-2-102(26) owned by an:

(A) air charter service; or

(B) air contract service.

(g) "Mobile flight equipment allocation factor" means the sum of:

(i) the ground hours factor; and

(ii) the revenue ton miles factor.

(h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(i) "Revenue ton miles factor" means the product of:

(i) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles; and

(ii) .50.

(j) "Utah ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground in this state, calculated by aircraft type; and

(ii) the cost percentage.

(k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the calendar year that immediately precedes the January 1 described in Section 59-2-103; and

(ii) from flight stages that originate or terminate in this state.

(2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:

(a) the total value of the mobile flight equipment; and

(b) the mobile flight equipment allocation factor.

Amended by Chapter 65, 2014 General Session

**59-2-918.5 (Effective 01/01/15). Hearings on judgment levies --
Advertisement.**

(1) A taxing entity may not impose a judgment levy unless it first advertises its

intention to do so and holds a public hearing in accordance with the requirements of this section.

(2) (a) The advertisement required by this section may be combined with the advertisement described in Section 59-2-919.

(b) The advertisement shall be at least 1/8 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919.

(c) (i) For taxing entities operating under a July 1 through June 30 fiscal year the public hearing shall be held at the same time as the hearing at which the annual budget is adopted.

(ii) For taxing entities operating under a January 1 through December 31 fiscal year:

(A) for an eligible judgment issued on or after March 1 but on or before September 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted; or

(B) for an eligible judgment issued on or after September 16 but on or before the last day of February, the public hearing shall be held at the same time as the hearing at which property tax levies are set.

(3) The advertisement shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the eligible judgment and the tax impact on an average residential and business property located within the taxing entity.

(4) If a final decision regarding the judgment levy is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the judgment levy.

(5) The date, time, and place of public hearings required by Subsections (2)(c)(i) and (2)(c)(ii)(B) shall be included on the notice mailed to property owners pursuant to Section 59-2-919.1.

Amended by Chapter 256, 2014 General Session

59-7-102 (Effective 09/02/14). Exemptions.

(1) Except as provided in this section, the following are exempt from a tax under this chapter:

- (a) an organization exempt under Section 501, Internal Revenue Code;
- (b) an organization exempt under Section 528, Internal Revenue Code;
- (c) an insurance company that is subject to taxation on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers;
- (d) a local building authority as defined in Section 17D-2-102;
- (e) a farmers' cooperative; or
- (f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:
 - (i) a project, as defined in Section 11-13-103; or
 - (ii) facilities providing additional project capacity, as defined in Section 11-13-103.

(2) A corporation is exempt from a tax under this chapter:

- (a) if the corporation is an out-of-state business as defined in Section

53-2a-1202; and

(b) for income earned:

(i) during a disaster period as defined in Section 53-2a-1202; and

(ii) for the purpose of responding to a declared state disaster or emergency as defined in Section 53-2a-1202.

(3) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

(a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or

(b) the activities of the person's employees or agents who are:

(i) located solely at the premises of a printer's facility; and

(ii) performing services:

(A) related to:

(I) quality control;

(II) distribution; or

(III) printing services; and

(B) performed by the printer's facility in this state with which the person has contracted for printing.

(4) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8.

(5) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Amended by Chapter 376, 2014 General Session

Amended by Chapter 435, 2014 General Session

59-7-302 (Effective 01/01/15). Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" is as defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(26) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(k) Subject to Subsection (2), "sales factor weighted taxpayer" means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance.

(l) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and

any foreign country or political subdivision thereof.

(m) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or
(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and
(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Amended by Chapter 65, 2014 General Session

Amended by Chapter 398, 2014 General Session

59-7-605 (Effective 01/01/15). Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle,

the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the

emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2015, but beginning on or before December 31, 2015, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a) or (b) had the taxpayer purchased the vehicle, except that the

purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Amended by Chapter 125, 2014 General Session

59-7-614 (Effective 01/01/15). Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in

Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Office" means the Office of Energy Development created in Section 63M-4-401.

(m) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and located in the state may claim a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) The tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the business entity owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each tax credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The tax credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

(b) (i) A business entity that purchases or participates in the financing of a commercial energy system situated in Utah may claim a refundable tax credit as

provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the commercial energy system does not use solar equipment capable of producing 2,000 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the tax credit under this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

(C) The tax credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) A business entity that owns a commercial energy system located in the state using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity may claim a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(B) (I) The tax credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The tax credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The tax credit under this Subsection (2)(c) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(3) (a) A business entity that owns a commercial energy system located in the state that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (3) if:

(i) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise; and

(ii) the business entity does not claim a tax credit under Subsection (2)(b).

(b) A business entity may claim a tax credit under this section equal to the product of:

(i) 0.35 cents; and

(ii) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(c) The tax credit under this Subsection (3) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(d) The tax credit under this Subsection (3) may not be carried forward or carried back.

(e) The tax credit under this Subsection (3) is allowed for a commercial energy system completed and placed in service on or after January 1, 2015.

(f) A business entity that leases a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(4) (a) Except as provided in Subsection (4)(b), the tax credits provided for under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(c) (i) The office may set standards for residential and commercial energy systems claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the

systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) or (3) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (5)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 407, 2014 General Session

59-7-616 (Effective 01/01/15). Refundable tax credit for certain business entities.

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section 63M-1-3402.

(e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

(2) (a) Subject to the other provisions of this section, a tax credit recipient that is a corporation may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit

certificate; and

(b) may not claim a tax credit under both this section and Section 59-10-1110.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Enacted by Chapter 429, 2014 General Session

59-7-617 (Effective 01/01/15). Nonrefundable tax credit for employment of a person who is homeless.

(1) As used in this section:

(a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance with Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(b) "Person who is homeless" is as defined in Section 35A-5-302.

(2) Subject to the other provisions of this section, an eligible employer that is a corporation may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.

(3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the eligible employer is allowed to claim a tax credit under this section; and

(b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.

(5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Enacted by Chapter 315, 2014 General Session

59-7-901 (Effective 01/01/15). Title.

This part is known as the "Tax Credit Administration Act."

Enacted by Chapter 315, 2014 General Session

59-7-902 (Effective 01/01/15). Definitions.

As used in this part:

- (1) "Tax credit" means a nonrefundable tax credit listed on a tax return.
- (2) "Tax return" means:
 - (a) a corporate return as defined in Section 59-7-101 filed in accordance with this chapter; or
 - (b) a tax return filed in accordance with Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act.

Enacted by Chapter 315, 2014 General Session

59-7-903 (Effective 01/01/15). Removal of tax credit from tax return -- Prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.

(1) Subject to Subsection (2), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) are met:

(a) report to the Revenue and Taxation Interim Committee that, in accordance with this section:

(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that, in accordance with this section:

(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit.

Enacted by Chapter 315, 2014 General Session

59-9-107 (Effective 09/02/14). Nonrefundable small business jobs credit.

- (1) As used in this section:
 - (a) "Credit allowance date" is as defined in Section 63M-1-3502.
 - (b) "Office" is as defined in Section 63M-1-102.
 - (c) "Tax credit certificate" is as defined in Section 63M-1-3502.
- (2) An entity may claim a nonrefundable tax credit against a tax liability under this chapter in accordance with this section if the entity is issued a tax credit certificate by the office under Subsection 63M-1-3503(11). The office shall issue a tax credit certificate to an entity that is allocated tax credits under Subsection 63M-1-3503(11)(e).
- (3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate issued to the entity for the calendar year.
- (4) An entity may carry forward a tax credit under this section for seven years if:
 - (a) the entity is allowed to claim a tax credit under this section for a calendar year; and
 - (b) the amount of the tax credit exceeds the entity's tax liability under this chapter for that calendar year.
- (5) An entity required to pay a retaliatory tax levied under this chapter for a reason other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is calculated, and the tax credit may be used to offset retaliatory tax liability.
- (6) Notwithstanding the other provisions of this section, this section does not apply to an admitted insurer to the extent that the admitted insurer writes workers' compensation insurance in this state and has premiums taxed under Subsection 59-9-101(2).

Enacted by Chapter 435, 2014 General Session

59-10-1009 (Effective 01/01/15). Definitions -- Tax credits related to energy efficient vehicles.

- (1) As used in this section:
 - (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).
 - (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.
 - (c) "Certified by the board" means that:
 - (i) a motor vehicle on which conversion equipment has been installed meets the following criteria:
 - (A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and
 - (B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or
 - (ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.
 - (d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for

reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2015, but beginning on or before December 31, 2015, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a) or (b) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning

of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Amended by Chapter 125, 2014 General Session

59-10-1032 (Effective 01/01/15). Nonrefundable tax credit for employment of a person who is homeless.

(1) As used in this section:

(a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance with Title 35A, Chapter 5, Part 3,

Tax Credit for Employment of Persons Who Are Homeless Act.

(b) "Person who is homeless" is as defined in Section 35A-5-302.

(2) Subject to the other provisions of this section, an eligible employer that is a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.

(3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the eligible employer is allowed to claim a tax credit under this section; and

(b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.

(5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Enacted by Chapter 315, 2014 General Session

59-10-1110 (Effective 01/01/15). Refundable tax credit for certain business entities.

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section 63M-1-3402.

(e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

(2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-7-616.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Enacted by Chapter 429, 2014 General Session

59-12-102 (Effective 07/01/14). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

- (3) (a) "Admission or user fees" includes season passes.
- (b) "Admission or user fees" does not include annual membership dues to private organizations.
- (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.
- (5) "Agreement combined tax rate" means the sum of the tax rates:
 - (a) listed under Subsection (6); and
 - (b) that are imposed within a local taxing jurisdiction.
- (6) "Agreement sales and use tax" means a tax imposed under:
 - (a) Subsection 59-12-103(2)(a)(i)(A);
 - (b) Subsection 59-12-103(2)(b)(i);
 - (c) Subsection 59-12-103(2)(c)(i);
 - (d) Subsection 59-12-103(2)(d)(i)(A)(I);
 - (e) Section 59-12-204;
 - (f) Section 59-12-401;
 - (g) Section 59-12-402;
 - (h) Section 59-12-703;
 - (i) Section 59-12-802;
 - (j) Section 59-12-804;
 - (k) Section 59-12-1102;
 - (l) Section 59-12-1302;
 - (m) Section 59-12-1402;
 - (n) Section 59-12-1802;
 - (o) Section 59-12-2003;
 - (p) Section 59-12-2103;
 - (q) Section 59-12-2213;
 - (r) Section 59-12-2214;
 - (s) Section 59-12-2215;
 - (t) Section 59-12-2216;
 - (u) Section 59-12-2217; or
 - (v) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
 - (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
 - (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and
 - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

- (ii) sold for one nonitemized price.
- (b) "Bundled transaction" does not include:
 - (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;
 - (ii) the sale of real property;
 - (iii) the sale of services to real property;
 - (iv) the retail sale of tangible personal property and a service if:
 - (A) the tangible personal property:
 - (I) is essential to the use of the service; and
 - (II) is provided exclusively in connection with the service; and
 - (B) the service is the true object of the transaction;
 - (v) the retail sale of two services if:
 - (A) one service is provided that is essential to the use or receipt of a second service;
 - (B) the first service is provided exclusively in connection with the second service; and
 - (C) the second service is the true object of the transaction;
 - (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:
 - (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or
 - (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
 - (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:
 - (A) that retail sale includes:
 - (I) food and food ingredients;
 - (II) a drug;
 - (III) durable medical equipment;
 - (IV) mobility enhancing equipment;
 - (V) an over-the-counter drug;
 - (VI) a prosthetic device; or
 - (VII) a medical supply; and
 - (B) subject to Subsection (18)(f):
 - (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.
- (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:
 - (A) packaging that:
 - (I) accompanies the sale of the tangible personal property, product, or service;

and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a

product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(34) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

- (ii) a mineral;
- (iii) an herb or other botanical;
- (iv) an amino acid;
- (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
- (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);
- (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
 - (A) tablet form;
 - (B) capsule form;
 - (C) powder form;
 - (D) softgel form;
 - (E) gelcap form; or
 - (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
 - (A) as conventional food; and
 - (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.
- (35) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.
 - (b) "Digital audio work" includes a ringtone.
- (36) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:
 - (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided:
 - (I) by a purchaser of the mailing list; or
 - (II) at the discretion of the purchaser of the mailing list; and
 - (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address.
- (39) "Directory assistance" means an ancillary service of providing:
 - (a) address information; or

(b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through

(C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.
- (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).
- (c) "Durable medical equipment" does not include mobility enhancing equipment.
- (43) "Electronic" means:
 - (a) relating to technology; and
 - (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
- (44) "Electronic financial payment service" means an establishment:
 - (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
 - (b) that performs electronic financial payment services.
- (45) "Employee" is as defined in Section 59-10-401.
- (46) "Fixed guideway" means a public transit facility that uses and occupies:
 - (a) rail for the use of public transit; or
 - (b) a separate right-of-way for the use of public transit.
- (47) "Fixed wing turbine powered aircraft" means an aircraft that:
 - (a) is powered by turbine engines;
 - (b) operates on jet fuel; and
 - (c) has wings that are permanently attached to the fuselage of the aircraft.
- (48) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.
- (49) (a) "Food and food ingredients" means substances:
 - (i) regardless of whether the substances are in:
 - (A) liquid form;
 - (B) concentrated form;
 - (C) solid form;
 - (D) frozen form;
 - (E) dried form; or
 - (F) dehydrated form; and
 - (ii) that are:
 - (A) sold for:
 - (I) ingestion by humans; or
 - (II) chewing by humans; and
 - (B) consumed for the substance's:
 - (I) taste; or

- (II) nutritional value.
- (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).
- (c) "Food and food ingredients" does not include:
 - (i) an alcoholic beverage;
 - (ii) tobacco; or
 - (iii) prepared food.
- (50) (a) "Fundraising sales" means sales:
 - (i) (A) made by a school; or
 - (B) made by a school student;
 - (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
 - (iii) that are part of an officially sanctioned school activity.
- (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity" means a school activity:
 - (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
 - (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
 - (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.
- (51) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.
- (52) "Governing board of the agreement" means the governing board of the agreement that is:
 - (a) authorized to administer the agreement; and
 - (b) established in accordance with the agreement.
- (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
 - (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
 - (ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;
 - (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
 - (iv) the National Guard;
 - (v) an independent entity as defined in Section 63E-1-102; or
 - (vi) a political subdivision as defined in Section 17B-1-102.
- (b) "Governmental entity" does not include the state systems of public and higher education, including:
 - (i) a college campus of the Utah College of Applied Technology;
 - (ii) a school;
 - (iii) the State Board of Education;

- (iv) the State Board of Regents; or
- (v) an institution of higher education.

(54) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or
 - (H) rubber; and
 - (ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or
- (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

(56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge for installing:

- (i) tangible personal property; or
- (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
 - (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.

(57) "Institution of higher education" means an institution of higher education

listed in Section 53B-2-101.

(58) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:

- (I) \$100; or
- (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(59) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(60) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(62) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

(63) "Manufactured home" is as defined in Section 15A-1-302.

(64) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (65)(a) through (g); or

(j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(66) "Mobile home" is as defined in Section 15A-1-302.

(67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(68) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed;

or

(iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(71) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(74) "Modular home" means a modular unit as defined in Section 15A-1-302.

(75) "Motor vehicle" is as defined in Section 41-1a-102.

(76) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(79) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(81) "Pawnbroker" is as defined in Section 13-32a-102.

(82) "Pawn transaction" is as defined in Section 13-32a-102.

(83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real

property if that portable or movable tangible personal property is attached to real property only for:

- (A) convenience;
- (B) stability; or
- (C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (A) a computer;
- (B) a telephone;
- (C) a television; or

(D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

- (iv) an item listed in Subsection (123)(c).

(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(85) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

- (i) the residential street address of the customer; or
- (ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

- (i) through the use of a:

- (A) bank card;
- (B) credit card;
- (C) debit card; or
- (D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(88) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(89) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

- (H) straw.
- (b) "Prepared food" does not include:
 - (i) food that a seller only:
 - (A) cuts;
 - (B) repackages; or
 - (C) pasteurizes; or
 - (ii) (A) the following:
 - (I) raw egg;
 - (II) raw fish;
 - (III) raw meat;
 - (IV) raw poultry; or
 - (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and
 - (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or
 - (iii) the following if sold without eating utensils provided by the seller:
 - (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
 - (B) food and food ingredients sold in an unheated state:
 - (I) by weight or volume; and
 - (II) as a single item; or
 - (C) a bakery item, including:
 - (I) a bagel;
 - (II) a bar;
 - (III) a biscuit;
 - (IV) bread;
 - (V) a bun;
 - (VI) a cake;
 - (VII) a cookie;
 - (VIII) a croissant;
 - (IX) a danish;
 - (X) a donut;
 - (XI) a muffin;
 - (XII) a pastry;
 - (XIII) a pie;
 - (XIV) a roll;
 - (XV) a tart;
 - (XVI) a torte; or
 - (XVII) a tortilla.
- (c) An eating utensil provided by the seller does not include the following used to transport the food:
 - (i) a container; or

(ii) packaging.

(91) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(93) (a) "Private communication service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

- (iii) switching capacity; or
- (iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(95) (a) "Prosthetic device" means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(96) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(98) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

- (I) cash;
- (II) term; or
- (III) coupon;
- (B) that is allowed by a seller;
- (C) taken by a purchaser on a sale; and
- (D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(99) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(100) "Regularly rented" means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for value.

(101) "Rental" is as defined in Subsection (58).

(102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is

made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (104)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(105) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(107) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the

transfer of possession would be taxable if an outright sale were made.

(109) "Sale at retail" is as defined in Subsection (106).

(110) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

- (A) for the tangible personal property or product transferred electronically; and
- (B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(111) "Sales price" is as defined in Subsection (98).

(112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

- (I) textbooks;
- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or
- (D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

- (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection (112)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
 - (B) that is required to collect sales and use taxes under this chapter.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."
- (113) For purposes of this section and Section 59-12-104, "school":
- (a) means:
 - (i) an elementary school or a secondary school that:
 - (A) is a:
 - (I) public school; or
 - (II) private school; and
 - (B) provides instruction for one or more grades kindergarten through 12; or
 - (ii) a public school district; and
 - (b) includes the Electronic High School as defined in Section 53A-15-1002.
- (114) "Seller" means a person that makes a sale, lease, or rental of:
- (a) tangible personal property;
 - (b) a product transferred electronically; or
 - (c) a service.
- (115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:
- (i) used primarily in the process of:
 - (A) (I) manufacturing a semiconductor;
 - (II) fabricating a semiconductor; or
 - (III) research or development of a:
 - (Aa) semiconductor; or
 - (Bb) semiconductor manufacturing process; or
 - (B) maintaining an environment suitable for a semiconductor; or
 - (ii) consumed primarily in the process of:
 - (A) (I) manufacturing a semiconductor;
 - (II) fabricating a semiconductor; or
 - (III) research or development of a:
 - (Aa) semiconductor; or

- (Bb) semiconductor manufacturing process; or
- (B) maintaining an environment suitable for a semiconductor.
- (b) "Semiconductor fabricating, processing, research, or development materials"

includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

- (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

- (ii) a product transferred electronically.

(118) "Simplified electronic return" means the electronic return:

- (a) described in Section 318(C) of the agreement; and

- (b) approved by the governing board of the agreement.

(119) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(120) (a) "Sports or recreational equipment" means an item:

- (i) designed for human use; and

- (ii) that is:

- (A) worn in conjunction with:

- (I) an athletic activity; or

- (II) a recreational activity; and

- (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "sports or recreational equipment"; and

- (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(121) "State" means the state of Utah, its departments, and agencies.

(122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:

- (i) may be:

- (A) seen;

- (B) weighed;

- (C) measured;

- (D) felt; or

- (E) touched; or

- (ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

- (i) electricity;

- (ii) water;

- (iii) gas;

- (iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(124) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software;
or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (124)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

(125) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(126) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software;
or

(c) telecommunications transmission equipment, machinery, or software.

(127) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

- (B) wiring;
 - (vi) Internet access service;
 - (vii) a paging service;
 - (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;
 - (ix) a radio and television audio and video programming service:
 - (A) regardless of the medium; and
 - (B) including:
 - (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
 - (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;
 - (x) a value-added nonvoice data service; or
 - (xi) tangible personal property.
- (128) (a) "Telecommunications service provider" means a person that:
- (i) owns, controls, operates, or manages a telecommunications service; and
 - (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.
- (b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:
- (i) that person; or
 - (ii) the telecommunications service that the person owns, controls, operates, or manages.
- (129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:
- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (129)(a):
- (i) a bridge;
 - (ii) a computer;
 - (iii) a cross connect;
 - (iv) a modem;
 - (v) a multiplexer;
 - (vi) plug in circuitry;
 - (vii) a router;
 - (viii) software;
 - (ix) a switch; or
 - (x) equipment, machinery, or software that functions similarly to an item listed in

Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

(130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (130)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

(131) (a) "Textbook for a higher education course" means a textbook or other

printed material that is required for a course:

- (i) offered by an institution of higher education; and
- (ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(132) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(135) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (136)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136).

- (138) (a) "Vertical service" means an ancillary service that:
- (i) is offered in connection with one or more telecommunications services; and
 - (ii) offers an advanced calling feature that allows a customer to:
 - (A) identify a caller; and
 - (B) manage multiple calls and call connections.
- (b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.
- (139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.
- (b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.
- (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:
- (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:
 - (A) tires;
 - (B) waste coal;
 - (C) oil shale; or
 - (D) municipal solid waste; and
 - (ii) in amounts greater than actually required for the operation of the facility.
- (b) "Waste energy facility" does not include a facility that incinerates:
- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
 - (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- (141) "Watercraft" means a vessel as defined in Section 73-18-2.
- (142) "Wind energy" means wind used as the sole source of energy to produce electricity.
- (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Amended by Chapter 380, 2014 General Session
Amended by Chapter 380, 2014 General Session
Amended by Chapter 414, 2014 General Session

59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

- (1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:
- (a) retail sales of tangible personal property made within the state;
 - (b) amounts paid for:
 - (i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
 - (ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - (iii) an ancillary service associated with a:
 - (A) telecommunications service described in Subsection (1)(b)(i); or

- (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- (c) sales of the following for commercial use:
 - (i) gas;
 - (ii) electricity;
 - (iii) heat;
 - (iv) coal;
 - (v) fuel oil; or
 - (vi) other fuels;
- (d) sales of the following for residential use:
 - (i) gas;
 - (ii) electricity;
 - (iii) heat;
 - (iv) coal;
 - (v) fuel oil; or
 - (vi) other fuels;
- (e) sales of prepared food;
- (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- (g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - (i) the tangible personal property; and
 - (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:
 - (A) any parts are actually used in the repairs or renovations of that tangible personal property; or
 - (B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;
- (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;
- (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;
- (j) amounts paid or charged for laundry or dry cleaning services;
- (k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:
 - (i) stored;
 - (ii) used; or

- (iii) otherwise consumed;
- (l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:
 - (i) stored;
 - (ii) used; or
 - (iii) consumed; and
- (m) amounts paid or charged for a sale:
 - (i) (A) of a product transferred electronically; or
 - (B) of a repair or renovation of a product transferred electronically; and
 - (ii) regardless of whether the sale provides:
 - (A) a right of permanent use of the product; or
 - (B) a right to use the product that is less than a permanent use, including a right:
 - (I) for a definite or specified length of time; and
 - (II) that terminates upon the occurrence of a condition.
- (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:
 - (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - (A) 4.70%; and
 - (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and
 - (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
 - (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.
- (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
 - (i) a state tax imposed on the transaction at a tax rate of 2%; and
 - (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.
- (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:
 - (i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and
 - (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.
- (d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:
 - (A) a state tax imposed on the entire bundled transaction equal to the sum of:
 - (I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the

billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and

animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

- (i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;
- (ii) develop underground sources of water, including springs and wells; and
- (iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and

Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales

and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection 63M-1-3410(3) that construction on a qualified hotel, as defined in Section 63M-1-3402, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63M-1-3412.

(14) Notwithstanding Subsections (4) through (13), an amount required to be

expended or deposited in accordance with Subsections (4) through (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Amended by Chapter 380, 2014 General Session

Amended by Chapter 380, 2014 General Session

Amended by Chapter 429, 2014 General Session

59-12-104 (Effective 07/01/14). Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (i) by an establishment described in NAICS Code 336411 or 336412 of the

2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

- (a) not registered in this state; and
- (b) (i) not used in this state; or
- (ii) used in this state:
 - (A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:
 - (I) 30 days in any calendar year; or
 - (II) the time period necessary to transport the vehicle to the borders of this state;

or

- (B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

- (i) the item is intended for human use; and
- (ii) (A) a prescription was issued for the item; or
- (B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

- (A) a drug;
- (B) a syringe; or
- (C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

- (A) "syringe"; or
- (B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

- (i) the following if the item described in Subsection (12)(c) is not available to the general public:
 - (A) a church; or
 - (B) a charitable institution;
- (ii) an institution of higher education if:
 - (A) the item described in Subsection (12)(c) is not available to the general public; or
 - (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

- (i) a medical facility; or
- (ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

- (i) food and food ingredients;
- (ii) prepared food; or
- (iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

- (i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and
- (ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal

property;

(B) research and development;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining;

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years;

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development; and

(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

- (I) hand tools; or
- (II) maintenance and janitorial equipment and supplies;
- (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and
- (B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:
 - (I) office equipment and supplies; or
 - (II) equipment and supplies used in:
 - (Aa) the sale or distribution of farm products;
 - (Bb) research; or
 - (Cc) transportation; or
 - (iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;
- (19) sales of hay;
- (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:
 - (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;
 - (b) an employee of the producer described in Subsection (20)(a); or
 - (c) a member of the immediate family of the producer described in Subsection (20)(a);
- (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;
- (23) a product stored in the state for resale;
- (24) (a) purchases of a product if:
 - (i) the product is:
 - (A) purchased outside of this state;
 - (B) brought into this state:
 - (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - (II) by a nonresident person who is not living or working in this state at the time of the purchase;
 - (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - (D) not used in conducting business in this state; and
 - (ii) for:
 - (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
 - (B) a boat, the boat is registered outside of this state; or
 - (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is

registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

- (33) sales, leases, or uses of the following:
 - (a) a vehicle by an authorized carrier; or
 - (b) tangible personal property that is installed on a vehicle:
 - (i) sold or leased to or used by an authorized carrier; and
 - (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
 - (a) a person presents a prescription for the durable medical equipment; and
 - (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
- (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- (38) sales to a ski resort of:
 - (a) snowmaking equipment;
 - (b) ski slope grooming equipment;
 - (c) passenger ropeways as defined in Section 72-11-102; or
 - (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);
- (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
- (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and
- (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
 - (i) governing the circumstances under which sales are at the same business location; and
 - (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;
- (41) (a) sales of photocopies by:
 - (i) a governmental entity; or
 - (ii) an entity within the state system of public education, including:
 - (A) a school; or
 - (B) the State Board of Education; or
- (b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or
- (ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or
- (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

- (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or
- (ii) define:
 - (A) "commercial distribution";
 - (B) "live musical performance";
 - (C) "live news program"; or
 - (D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

- (i) is leased or purchased for or by a facility that:
 - (A) is an alternative energy electricity production facility;
 - (B) is located in the state; and
 - (C) (I) becomes operational on or after July 1, 2004; or
 - (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is used to make the facility or the increase in capacity of the facility

described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or
- (I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) generating equipment;
 - (B) a control and monitoring system;
 - (C) a power line;
 - (D) substation equipment;
 - (E) lighting;
 - (F) fencing;
 - (G) pipes; or
 - (H) other equipment used for locating a power line or pole; and
- (b) this Subsection (56) does not apply to:

- (i) tangible personal property used in construction of:
 - (A) a new waste energy facility; or
 - (B) the increase in the capacity of a waste energy facility;
 - (ii) contracted services required for construction and routine maintenance activities; and
 - (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or
 - (B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

- (i) is leased or purchased for or by a facility that:
 - (A) is located in the state;
 - (B) produces fuel from alternative energy, including:
 - (I) methanol; or
 - (II) ethanol; and
 - (C) (I) becomes operational on or after July 1, 2004; or
 - (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;
- (ii) has an economic life of five or more years; and
- (iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

- (i) tangible personal property used in construction of:
 - (A) a new facility described in Subsection (57)(a)(i); or
 - (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- (ii) contracted services required for construction and routine maintenance activities; and
- (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
 - (A) the facility described in Subsection (57)(a)(i) is operational; or
 - (B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a

refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

- (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;
- (iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;
- (iv) for sales and use taxes paid under this chapter on the sale;
- (v) in accordance with Section 59-1-1410; and
- (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred

electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

- (ii) installed or converted to real property owned by the public transit district;
- (66) sales of construction materials:
 - (a) purchased on or after July 1, 2010;
 - (b) purchased by, on behalf of, or for the benefit of an international airport:
 - (i) located within a county of the first class; and
 - (ii) that has a United States customs office on its premises; and
 - (c) if the construction materials are:
 - (i) clearly identified;
 - (ii) segregated; and
 - (iii) installed or converted to real property:
 - (A) owned or operated by the international airport described in Subsection (66)(b); and
 - (B) located at the international airport described in Subsection (66)(b);
- (67) sales of construction materials:
 - (a) purchased on or after July 1, 2008;
 - (b) purchased by, on behalf of, or for the benefit of a new airport:
 - (i) located within a county of the second class; and
 - (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and
 - (c) if the construction materials are:
 - (i) clearly identified;
 - (ii) segregated; and
 - (iii) installed or converted to real property:
 - (A) owned or operated by the new airport described in Subsection (67)(b);
 - (B) located at the new airport described in Subsection (67)(b); and
 - (C) as part of the construction of the new airport described in Subsection (67)(b);
- (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- (69) purchases and sales described in Section 63H-4-111;
- (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or
 - (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;
- (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
 - (a) to a person admitted to an institution of higher education; and
 - (b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

(B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical;

and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

- (ii) subject to taxation under this chapter; and

- (c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

- (i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

- (ii) the purpose and effectiveness of the exemption; and

- (iii) whether the exemption benefits the state;

- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

- (78) amounts paid or charged to access a database:

- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

- (b) not including amounts paid or charged for a:

- (i) digital audiowork;

- (ii) digital audio-visual work; or

- (iii) digital book;

- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

- (a) machinery and equipment that:

- (i) are used in the operation of the electronic financial payment service; and

- (ii) have an economic life of three or more years; and

- (b) normal operating repair or replacement parts that:

- (i) are used in the operation of the electronic financial payment service; and

- (ii) have an economic life of three or more years;

- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

- (a) is stored, used, or consumed in the state; and

- (b) is temporarily brought into the state from another state:

- (i) during a disaster period as defined in Section 53-2a-1202;

- (ii) by an out-of-state business as defined in Section 53-2a-1202;

- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202;

and

- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

and

- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program.

Amended by Chapter 24, 2014 General Session
Amended by Chapter 27, 2014 General Session
Amended by Chapter 122, 2014 General Session
Amended by Chapter 376, 2014 General Session
Amended by Chapter 380, 2014 General Session

59-12-2218 (Effective 07/01/14). County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:

(a) .10%; or

(b) .25%.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town; or

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town;

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104; or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

- (D) a traffic sign;
- (E) a traffic signal;
- (F) street lighting; or
- (G) a combination of Subsections (4)(f)(i)(A) through (F);
- (ii) the construction of an active transportation facility that:
 - (A) is for nonmotorized vehicles and multimodal transportation; and
 - (B) connects an origin with a destination; or
- (iii) a combination of Subsections (4)(f)(i) and (ii); or
- (g) deposited or expended for a combination of Subsections (4)(a) through (f).
- (5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this part for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:
 - (a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or
 - (b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.
- (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5.
 - (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.
- (b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:
 - (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
 - (ii) has continuously imposed a tax described in Subsection (2)(b):
 - (A) beginning after July 1, 2010; and
 - (B) for a five-year period.
- (7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
 - (i) expend the revenues in accordance with Subsection (4); or
 - (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
 - (A) that city or town owns or operates an airport facility; and
 - (B) an airline is headquartered in that city or town.
- (b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:
 - (A) that city or town owns or operates an airport facility; and
 - (B) an airline is headquartered in that city or town.
- (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:
 - (A) a project or service relating to the airport facility; and
 - (B) the portion of the project or service that is performed within the city or town

imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):

(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under

this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

- (a) to the county legislative body within which the city or town is located; and
- (b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

(i) are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

(ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax; and

(C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection

(7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

- (A) Subsection (9)(c); and
- (B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

Amended by Chapter 271, 2014 General Session